

Fresno, California

November 14, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager  
James Sanchez, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

District 7 staff member Sherry Vargas read a poem and gave the invocation, and Councilmember Westerlund led the Pledge of Allegiance.

**PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER BOYAJIAN**

The pet of the month available for adoption, a female terrier mix puppy, was presented.

**PROCLAMATION OF "AMERICA RECYCLES DAY" - ACTING PRESIDENT PEREA**

Read and presented.

**PRESENTATION OF THE MAYOR'S BUSINESS RECYCLING AWARDS**

Presented.

**PROCLAMATION OF "HOSPICE AWARENESS MONTH" - MAYOR AUTRY AND COUNCILMEMBER CALHOUN**

Read and presented.

**PROCLAMATIONS TO POLICE OFFICERS TREVOR SHIPMAN AND DANIEL MESSICA - MAYOR AND COUNCILMEMBERS**

Removed from the agenda.

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**APPROVE MINUTES OF OCTOBER 31, 2006**

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of October 31, 2006, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

COUNCILMEMBER BOYAJIAN: Congratulations to Blong Xiong on being elected District 1 Councilmember and commendation to Mr. Xiong and Scott Miller for running an honest campaign.

COUNCILMEMBER DAGES: Thank you to Planning & Development Director Yovino and his staff for all their work on the southeast growth area meeting.

COUNCILMEMBER CALHOUN: Upcoming major street impact fees and suggestion to hire a facilitator if the gap between the building industry and the City is not closed.

COUNCILMEMBER WESTERLUND: (1) Recommendation to have a workshop prior to staff bringing the street impact fee matter to Council on December 12<sup>th</sup>; (2) notification of absence from the Council meetings of November 28<sup>th</sup> and December 5<sup>th</sup> due to reserve duty; (3) congratulations extended to everyone who worked on the successful Measure “C” campaign; (4) USA Today newspaper article on Fresno’s DUI program and commendation to the Police Department; and (5) commendation to the Veterans, Mr. Dietsel and everyone else involved in the Veterans Day Parade.

COUNCILMEMBER STERLING: Reiteration of request to staff to reopen California and Kearney Boulevard since the Running Horse project has shut down, with City Manager Souza responding and clarifying issues.

PRESIDENT DUNCAN: (1) Commendation to the City Manager and Administration for assigning a full-time staff person to address the problem of illegal signs (“corporate graffiti”) placed in the public right of way and fine those responsible; and (2) intent to bring forth an item to Council in January to make the establishment of wireless internet for businesses in the city regulation-free.

COUNCILMEMBER BOYAJIAN: Request staff look into the numerous illegal signs posted along the Emerson Avenue green space between West and Marks Avenues.

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**APPROVE AGENDA:**

**(10:05 A.M. #1)** HEARING TO RENAME THE IVY CENTER THE MARY ELLA BROWN COMMUNITY CENTER *(Continue to November 28, 2006, at 10:55 a.m.)*

Continued as noted.

**(3:00 P.M. #1)** CONTINUED HEARING TO CONSIDER AN INCREASE TO THE CURRENT CITYWIDE TRAFFIC SIGNAL IMPACT FEE *(Continue to December 12, 2006, at 10:00 a.m. #1)*

Continued as noted.

**(3:00 P.M. #2)** CONTINUED HEARING ON ADOPTION OF A FINDING OF CONFORMITY WITH THE 2025 GENERAL PLAN MEIR NO. 10130, AND INTRODUCTION OF A BILL ESTABLISHING NEW CITYWIDE AND QUADRANT-BASED MAJOR STREET IMPACT FEES *(Continue to December 12, 2006, at 10:00 a.m. #2)*

Continued as noted.

**(4:10 P.M.)** HEARING ON REZONE APPLICATION NO. R-06-13 AND ENVIRONMENTAL FINDINGS, FILED BY HARBOUR AND ASSOCIATES ON BEHALF OF MICHAEL KLUDJIAN, WEST SIDE OF S. WILLOW BETWEEN E. TULARE AND E. KINGS CANYON ROAD *(Continue to 4:45 p.m. this date)*

Continued as noted.

**(4:15 P.M.)** HEARING TO CONSIDER AN APPEAL OF THE PLANNING AND DEVELOPMENT DIRECTOR’S APPROVAL OF CUP APPLICATION NO. C-06-44 AND ENVIRONMENTAL FINDINGS, FILED BY OMNIPOINT COMMUNICATION ON BEHALF OF T-MOBILE COMMUNICATION, NORTHWEST CORNER OF W. BULLARD AND N. TAMERA AVENUES *(Continue to 5:00 p.m.)*

Continued as noted.

**(5:15 P.M.)** CONTINUED HEARING TO CONSIDER DESIGNATION OF BUILDING 8, THE FORMER RETAIL SHED OF THE SUGAR PINE LUMBER COMPANY AT 7435 N. INGRAM AVENUE TO THE LOCAL REGISTER OF HISTORIC RESOURCES (PINEDALE ASSEMBLY CENTER SITE/STATE HISTORICAL LANDMARK NO. 934, CAMP PINEDALE) *(Continue to November 29, 2006, at 5:30 p.m.)*

Continued as noted.

**(5:30 P.M.)** CONTINUED HEARING ON REZONE APPLICATION NO. R-06-47 AND ENVIRONMENTAL FINDINGS FILED BY SOL DEVELOPMENT ON BEHALF OF GRANUM PARTNER, PROPERTY LOCATED BETWEEN W. ALLUVIAL AND W. LOCUST AND BETWEEN N. PALM AND N. INGRAM AVENUES (Continue to November 29, 2006, at 5:30 p.m.)

Continued as noted.

**(1-E)** AUTHORIZE THE CHIEF OF POLICE TO EXECUTE THE REQUIRED PROGRAM DOCUMENTS FOR ACCEPTANCE OF THE CALIFORNIA KIDS' PLATES MINI-GRANT IN THE AMOUNT OF \$5,000

1. RESOLUTION - 26<sup>TH</sup> AMENDMENT TO THE AAR APPROPRIATING THE \$5,000 TO PROVIDE CHILD SAFETY SEATS TO LOW INCOME FAMILIES IN NEED

Removed from the agenda by staff/to be rescheduled

**(2:30 P.M.)** PRESENTATION BY THE FRESNO COUNTY COG ON THE REGIONAL BLUEPRINT PROCESS - PRESIDENT DUNCAN

Continued to December 12, 2006, at 9:30 a.m.

**(10:00 A.M. #1)** HEARING TO CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 128, FINAL TRACT 5287 OF CFD NO. 2

**-and-**

**(10:00 A.M. #2)** HEARING ON CFD NO. 11, ANNEXATION NO. 11, TRACT NO. 5553

City Clerk Klisch advised of minor corrections to the agenda titles of the two related Ordinance Bills. So noted and corrected.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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#### **ADOPT CONSENT CALENDAR:**

Barbara Hunt, 2475 S. Walnut, spoke in general to Items **1-E**, **1H**, **1-J** and **1-P**.

Councilmember Calhoun commended staff on Item **1-J** and for delivering on the promise made to bus riders, and on Item **1-K** stating there can never be enough trees and advised he would be working with staff in the future to add more trees in his district using funds from his district office's budget.

Councilmember Calhoun pulled Item **1-Q**, Councilmember Westerlund pulled Items **1-I**, **1-J** and **1-K**, and Councilmember Boyajian pulled Item **1-M** from the Consent Calendar for discussion/action at 2:00 p.m.

**(1-A)** APPROVE AMENDMENT NO. 3 TO THE AGREEMENT WITH DALE RUTHERFORD, AIA, FOR DESIGN WORK FOR THE NEXT PHASE OF ACOUSTIC TREATMENT OF APPROXIMATELY 40 HOMES UNDER THE SMART PROGRAM, AND AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY IN THE AMOUNT OF \$139,322

**(1-B)** APPROVE A SIX YEAR LEASE OF A HANGAR AT CHANDLER EXECUTIVE AIRPORT TO MICHAEL HOVSEPIAN d.b.a. ALOHA AIRCRAFT SALES, OR TO A CORPORATION OR LLC TO BE FORMED BY MR. HOVSEPIAN, FOR THE PURPOSE OF SELLING NEW AND USED AIRCRAFT

**(1-C) RESOLUTION NO. 2006-484 -** APPROVING THE STREET ALIGNMENT AND WIDTH OF A PROPOSED PUBLIC STREET FOR A 6-LOT INDUSTRIAL PARCEL MAP, PROPERTY LOCATED ON E. SHIELDS BETWEEN N. ARMSTRONG AND N. FOWLER AVENUES WITHIN THE BOUNDARIES OF VESTING TENTATIVE PARCEL MAP NO. 2005-33

**(1-D) RESOLUTION NO. 2006-485** - APPROVING THE FINAL MAP OF TRACT NO. 5450 AND ACCEPTING DEDICATED PUBLIC USED THEREIN, SOUTHWEST CORNER OF S. FOWLER AND E. CHURCH AVENUES

**1. AUTHORIZE THE PUBLIC WORKS DIRECTOR, PUBLIC UTILITIES DIRECTOR AND PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS**

**(1-F) AUTHORIZE THE FIRST AMENDMENT TO THE OPERATIONAL AGREEMENT FOR THE CALIFORNIA MULTI-JURISDICTIONAL METHAMPHETAMINE ENFORCEMENT TEAMS (CALMMET) 2006-07 GRANT, AND AUTHORIZE THE CHIEF OF POLICE TO SIGN AND COMPLETE RELATED DOCUMENTS**

**1. RESOLUTION NO. 2006-486** - 35<sup>TH</sup> AMENDMENT TO THE AAR APPROPRIATING \$15,200 IN ADDITIONAL GRANT FUNDING FOR THE CALMMET PROGRAM

**(1-G) RESOLUTION NO. 2006-487** - 7<sup>TH</sup> AMENDMENT TO THE PAR TO INCREASE A FIRE DEPARTMENT STAFF ASSISTANT POSITION .25 FTE FOR FY 2007

**(1-H) RESOLUTION NO. 2006-488** - AUTHORIZING APPLICATION AND ACCEPTANCE OF A GRANT AWARD OF \$254,700 FROM THE STATE OFFICE OF EMERGENCY SERVICES THROUGH THE COUNTY OF FRESNO, AND AUTHORIZE THE FIRE CHIEF TO COMPLETE ALL REQUIRED DOCUMENTS

**1. RESOLUTION NO. 2006-489** - 37<sup>TH</sup> AMENDMENT TO THE AAR APPROPRIATING THE FUNDS FROM THE HOMELAND SECURITY GRANT TO THE FIRE DEPARTMENT TO PROVIDE HAZARDOUS MATERIALS AND URBAN SEARCH AND RESCUE TECHNICIAN TRAINING

**(1-L) REJECT ALL BIDS FOR THE LEWIS S. EATON TRAIL IMPROVEMENTS AT WOODWARD PARK**

**(1-N) AWARD A ONE YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO NATIONAL WATERWORKS IN THE AMOUNT OF \$144,672.54 FOR BUTTERFLY, GATE, AND CHECK VALVES**

**(1-O) AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO WEST VALLEY CONSTRUCTION COMPANY IN THE AMOUNT OF \$904,550 FOR PERMANENT ASPHALT CONCRETE PAVEMENT REPAIRS**

**(1-P) RESOLUTION NO. 2006-490** - 36<sup>TH</sup> AMENDMENT TO THE AAR APPROPRIATING \$402,500 TO PROVIDE BI-ANNUAL UGM REIMBURSEMENTS FROM AVAILABLE FUNDS TO APPROVED DEVELOPERS

**(1-R) BILL NO. B-156** - INTRODUCTION OF BILL AMENDING THE FMC RELATING TO DEFINITION OF PUBLIC WORK OF IMPROVEMENT

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(9:00 A.M.) PUBLIC COMMENT PERIOD:**

**(A) SCHEDULED COMMUNICATION:**

**1. APPEARANCE BY LARRY LEININGER TO DISCUSS THE MAYOR'S GANG PREVENTION INITIATIVE**

Not present when called.

**2. APPEARANCE BY GERALD BLUM TO REQUEST THE NAME OF THE CONVENTION CENTER'S "VALDEZ HALL" BE CHANGED TO HONOR PHILLIP SANCHEZ, FORMER FRESNO RESIDENT AND AMBASSADOR TO COLUMBIA AND HONDURAS.**

Appearance made and a bio on Mr. Sanchez was submitted.

**(B) UNSCHEDULED COMMUNICATION:**

ACM Rudd introduced new Transportation Director Ken Hamm, and Mr. Hamm spoke briefly stating he was excited to live and work here. President Duncan welcomed Mr. Hamm to the City.

Barbara Hunt, 2475 S. Walnut, **(2 - 0)** called for a moment of silence for Police Officers Shipman and Messica who were shot and for the firefighters who lost their lives in the southern California fire; and expressed concerns with the Running Horse project.

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**(2-A) APPROVE AMENDMENT TO THE FY 2007 ANNUAL ACTION PLAN TO PROVIDE FOR A \$250,000 LOAN FROM THE CDBG PROGRAM TO MASTEN TOWERS FOR ELEVATOR MODERNIZATION - COUNCILMEMBER STERLING**

**1. RESOLUTION NO. 2006-491 - 39<sup>TH</sup> AMENDMENT TO THE AAR APPROPRIATING THE FUNDS TO MASTEN TOWERS**

Councilmember Sterling and District 3 Chief of Staff Barfield reviewed the issue, all as contained in the report to Council as submitted, and requested approval.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Mr. Barfield, Masten Towers Board Member Patrick Gorman, and M.A. Smith responded to questions of Councilmember Boyajian relative to the payment structure, if Masten Towers (MT) budgeted for this, and what will happen if loan payments are not made. A motion and second was made to adopt the resolution. Councilmember Sterling thanked everyone involved for working together and added this would insure the facility is up to standard and the very low-income residents are served.

Lengthy discussion ensued with Mr. Gorman, Ms. Smith, City Manager Souza and City Attorney Sanchez responding to numerous questions, comments and/or concerns of Councilmembers Westerlund and Calhoun relative to whether MT was a non-profit organization, if MT was a federally subsidized program, perception that this is a re-occurring issue and if there are any other HUD funding streams, number of low-income residents MT serves, if there has ever been an opportunity to refurbish the elevators since 1991, loan funding source, concerns relative to precedent-setting and this matter coming to Council in the middle of the fiscal year, perplexity as to why these funds are “sitting around” in an account, if an interest-free loan was normal, what other organizations who may request an interest-free loan should be told, why this was a loan and not a grant, if this need was known last spring, why the Redevelopment Agency did this in 1991 and not now, if approval this date was final or if another analysis would come back from staff, if the Administration was supportive of this, if direction could be given to staff to conduct an analysis and report back before taking final action so all facts are on record, and if there was a plan or a better use for these funds.

On motion of Councilmember Sterling, seconded by Councilmember Boyajian, duly carried, RESOLVED, the above entitled Resolution No. 2006-491 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(2-B) RESOLUTION NO. 2006-492 - APPROVING THE U.S. MAYOR’S CLIMATE PROTECTION AGREEMENT AND AUTHORIZING THE EXECUTION OF THE AGREEMENT ON BEHALF OF THE CITY - COUNCILMEMBER CALHOUN**

Speaking to the issue were: Franz Weinschenk, who spoke to the background, in support of the new resolution, and to the need to reduce global warming; and Barbara Hunt 2475 S. Walnut, support for the resolution.

Councilmember Calhoun reviewed the issue, all as contained in his report as submitted clarifying the agreement previously adopted by resolution on July 18<sup>th</sup> did not include clear direction on its execution, and made a motion to adopt the above resolution, which motion was seconded by Acting President Perea and later acted upon. Councilmember Boyajian thanked Mr. Weinschenk and Councilmember Calhoun for their persistence in getting this approved. Upon question of City Manager Souza, Councilmember Calhoun and City Attorney Sanchez explained what was at issue, what the expectation/definition of “execution of the agreement” was, and what additional administrative follow-up issues may occur once the agreement is executed.

Acting President Perea expressed his support and stated his expectation was to follow the resolution and continue efforts to use renewable energy, and added if this is not vetoed he hoped staff would go through each bullet point and return to Council with plans and ideas to accomplish the goals. President Duncan stated he felt what was before Council was more of a Charter issue and not an environmental issue as the City was already doing all the things listed in the agreement, stated the Mayor does not agree with the agreement and Council was trying to force him to take a position, questioned if Council had legal authority to force the Mayor to send documents to an organization to place the city of Fresno on the list, recommended this resolution not be adopted and that staff be directed to return with policy issues that the City can initiate to improve its environment, and stated he was extremely disappointed that Council was tying policy into a political issue and encouraged a no vote, with Mr. Sanchez responding throughout. Councilmember Westerlund stated he supported the issue back in July as he felt it was an endorsement of policies the City had already begun implementing and was committed to, and presented questions relative to what will happen if this is vetoed and overridden again, if Council could legislatively instruct the Mayor to take a position within the U.S. Conference of Mayors organization of which he is a member **(3 - 0)**, and if any Council has overruled a Mayor who did not want to sign onto this, with Mr. Souza and Mr. Weinschenk responding throughout. Councilmember Westerlund reiterated he first supported the resolution in the spirit of energy efficiency and emissions but he was concerned with the personal nature of it now and could not support it as it is currently set up. Acting President Perea stated the most important thing here was the City of Fresno being listed as supporting the agreement and not necessarily the Mayor's name being on it, and questioned if there was a way to stipulate that either the Mayor or City Manager can execute the agreement on the City's behalf, with Mr. Sanchez responding and clarifying Council could take action this date to direct an alternative signatory to the agreement. Councilmember Westerlund concurred there was probably a way to work around the signature wording and added what was more important than having the City's name listed on it was actually doing the things it suggests and getting things done and explained. President Duncan added if this had been a set of policies to adopt it would be a good thing to vote for but the problem was trying to direct the Mayor to make a personal choice in an organization which made this complicated and confusing.

On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2006-492 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Perea, Sterling
Noes	:	Dages, Westerlund, Duncan
Absent	:	None

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#### **(9:15 A.M. "A") INITIATION OF CITY COUNCIL DISTRICT BOUNDARY MODIFICATION AND RECOMMENDATION**

City Attorney Sanchez gave an overview of the redistricting ordinance and the process and limitations of the Council and Mayor in terms of how this will work, and upon question of President Duncan confirmed it would be inappropriate through this process for Council members or the Mayor to ask for particular districts or areas. Planning & Development Director Yovino spoke further to the issue, to the numbers (including district disparities and growth), and to the need adjust the boundaries based on these numbers and requested staff recommendation be approved.

Barbara Hunt, 2475 S. Walnut, spoke to boundary concerns.

Mr. Yovino responded briefly to questions and/or comments of Councilmembers Boyajian and Dages relative to what the criteria will be for expansion (in terms of physical characteristics/historical areas), keeping the integrity of districts as was done five years ago, boundaries in the newest part of the west area, and how many years in advance will staff look at for southeast's population explosion.

On motion of President Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, staff directed to return to Council with a proposal for Council District boundary adjustments that strives to reduce current disparities in district population, while at the same time taking into account projections of population growth so as to reduce future disparities in district populations, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(10:00 A.M. #1)** HEARING TO CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 128, FINAL TRACT 5287 OF CFD NO. 2

**\*1. RESOLUTION - CHANGING THE RATE AND METHOD OF APPORTIONING THE TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX**

**\*2. RESOLUTION - CALLING A SPECIAL MAILED-BALLOT ELECTION**

**\*3. RESOLUTION - DECLARING ELECTION RESULTS**

**\*4. BILL - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-07 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Chief Engineering Technician Witzel advised the staff report as submitted was complete and there was no new information to add.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

**\* NOTE** - A motion and second was made by Councilmember Dages and Acting President Perea to approve staff's recommendation and the above Resolutions and Ordinance Bill were adopted by a unanimous vote. It was determined on November 15, 2006, that the election ballots had not been received, the four above entitled documents were deemed void, and on November 28, 2006, a hearing to reconsider the matter was set for December 12, 2006, at 9:55 a.m. #1.

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**(10:00 A.M. #2)** HEARING ON CFD NO. 11, ANNEXATION NO. 11, TRACT NO. 5553

**\*1. RESOLUTION - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**\*2. RESOLUTION - CALLING A SPECIAL MAILED-BALLOT ELECTION**

**\*3. RESOLUTION - DECLARING ELECTION RESULTS**

**\*4. BILL - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-07 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Chief Engineering Technician Witzel advised the staff report as submitted was complete and there was no new information to add.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Upon question of Councilmember Boyajian Mr. Witzel confirmed this tax would take care of curbs, gutters and sidewalks.

**\* NOTE** - A motion and second was made by President Duncan and Councilmember Sterling to approve staff's recommendation and the above Resolutions and Ordinance Bill were adopted by a unanimous vote. It was determined on November 15, 2006, that the election ballots had not been received, the four above entitled documents were deemed void, and on November 28, 2006, a hearing to reconsider the matter was set for December 12, 2006, at 9:55 a.m. #2.

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**(10:00 A.M. #3)** HEARING ON CFD NO. 11, ANNEXATION NO. 12, TRACT NO. 5669

**1. RESOLUTION NO. 2006-499 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**2. RESOLUTION NO. 2006-500 - CALLING A SPECIAL MAILED-BALLOT ELECTION**

**3. RESOLUTION NO. 2006-501 - DECLARING ELECTION RESULTS**

**4. BILL NO. B-159 - ORDINANCE NO. 2006-157 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-07 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Chief Engineering Technician Witzel advised the staff report as submitted was complete and added the reason the fee was only \$80 per lot was because it was for concrete and streetlight maintenance only.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Upon question of Councilmember Westerlund, Mr. Witzel and Assistant Public Works Director Kirn explained why the executive summary indicated there would be more maintenance beyond just concrete and streetlights.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-499, 2006-500 and 2006-501 hereby adopted, and the above entitled Bill No. B-159 adopted as Ordinance No. 2006-157, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(10:00 A.M. #4)** HEARING ON CFD NO. 11, ANNEXATION NO. 13, TRACT NO. 5400

**1. RESOLUTION NO. 2006-502 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**2. RESOLUTION NO. 2006-503 - CALLING A SPECIAL MAILED-BALLOT ELECTION**

**3. RESOLUTION NO. 2006-504 - DECLARING ELECTION RESULTS**

**4. BILL NO. B-160 - ORDINANCE NO. 2006-158 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-07 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Chief Engineering Technician Witzel advised the staff report as submitted was complete and there was no new information to add.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-502, 2006-503 and 2006-504 hereby adopted, and the above entitled Bill No. B-160 adopted as Ordinance No. 2006-158, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(10:05 A.M. #2)** WORKSHOP RELATING TO THE AIRPORTS TERMINAL AREA 3-YEAR CAPITAL PLAN

Airports Director Widmar gave an in-depth PowerPoint presentation on the Capital Plan which included why the plan was needed, completed projects, the new project list, schedule for project completion (**4 - 0**), and the budget and funding source.



Lengthy discussion ensued with Mr. Widmar responding to questions and/or comments of Councilmembers Westerlund, Calhoun, Boyajian, Perea and President Duncan relative to how the Airports as an enterprise department can afford these projects, the baggage claim project, the solar project and desire to see an analysis, hope that the department is not getting too far ahead of itself, bonding concern, support for the "Sense of Place" project, gate threshold, where revenue growth has been, Mexicana Airlines, subsidy plans, fares and high percentage of service lost to other airports, exclusive agreements, if there were plans to expand parking up, commendation on the 5-year plan, how large the solar project will be, source of power supply, luggage pre-screening, how solar project investors will get a return, and incentives and concern with subsidies and another Frontier situation. Staff was commended for doing an outstanding job and there was no further discussion.

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**RECESS - 11:30 A.M. - 11:36 A.M.**

**(10:45 A.M.) PRESENTATION ON THE CALIFORNIA TELEPHONE ACCESS PROGRAM**

Councilmember Westerlund gave a brief overview of the issue, and Mr. Harvey explained and provided information on the PUC's Telephone Access Program which provides free equipment to any Californian with functional limitations/has difficulty using the telephone, and displayed some of the various telephone equipment given out. Mr. Harvey was thanked for his presentation and there was no discussion.

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**(11:00 A.M.) DIRECT STAFF TO SERVE NOTICE OF TERMINATION WITHOUT CAUSE TO MV TRANSPORTATION AND EXPLORE OPTIONS TO HAVE THE CITY PROVIDE THE SERVICE AND RETURN WITH A REPORT ON DECEMBER 12, 2006, AT 9:45 A.M. - COUNCILMEMBER DAGES**

Councilmember Dages spoke to the background of the issue and clarified he was simply looking after taxpayer dollars and it was not his intent to make things more difficult for the disabled, and stated since the last time this matter was discussed MV was in default of their contract and reiterated it was his duty to protect taxpayer dollars either by termination or by finding an immediate way stop the flow of those dollars to support a business who bid on this contract.

ACM Rudd stated the issue before Council had been problematic for the last year and even before the contract was entered into with MV, noted he has been working with MV for the past three months thinking the performance measures and goals in the RFP were achievable but he was not at that point now and explained, and advised the new Transportation Director was asked to initiate a performance audit of data MV uses to report out their performance, as well as data from the previous contractor, to evaluate the capacity of the system, what it can and can not do, and provide a realistic expectation of what the system can provide given the resources it currently has and further explained.

Councilmember Dages added another concern of his was the problem being experienced by five senior citizen complexes and he wanted that resolved also, noted the options were to either direct staff to terminate the contract for default, terminate with a 60 day notice with no cause, or wait until next year and defund it which he stated did not want to do, and stated although he was in a position to make a motion to terminate with a 60 day notice he first wanted public and Council input after hearing Mr. Rudd's comments on an audit and putting out another RFP.

**(5 - 0)** Alex Lodde, founder and majority owner of MV Transportation from San Francisco, spoke at length to the history of the issue, to Council's concerns, to his taking personal responsibility for the oversight of the contract and actions subsequently taken, to MV's performance since September, and to how MV "took over a dysfunctional system through a very flawed RFP process" and explained, and stated MV has worked diligently with the disabled community to make sure they have the best service possible.

Speaking to the issue were: Ed Eames, Chair of the ADA Advisory Committee, support for Mr. Rudd's (staff) direction and opposed to contract termination; Olivia Ostergaard, support for termination; Marilyn Jost, Deputy Chair of the ADA Advisory Council, support for staff direction; Susan Smith, support for MV and staff direction; Carol Casey, support for staff direction; Brent Bethell, support for MV/staff direction; Tamera Shaw, MV employee/former Laidlaw employee, support for MV; Mike Briggs, who spoke to the need for the highest quality service and not the lowest price; Barbara Hunt, who spoke to the need to take care of the disabled; Veda Ramsay-Stamps, who questioned what the evaluation would entail, with Mr. Rudd responding; Mary Kasson, Chair of the MV Transition Committee, support for MV; Jena Liberty, Handy Ride employee, support for staff direction and time given to MV; Lisa Franco, who recommended Council go out and visit facilities in their districts who utilize the service to determine if proper service if being provided; and Mary Beth Randall, ADA Committee member, support for MV.

Councilmember Sterling thanked Mr. Lodde **(6 - 0)** for his responsiveness and all the speakers who took the time to be present and provide valuable input, commented on the matter at length and stated a major issue was meeting appointment times and elaborated, and stated she supported taking the time for an audit as it was needed in this case. Councilmember Westerlund also thanked everyone for their testimony, stated it appeared the RFP was way shy of where it should have been which resulted in faulty data and a cascading effect down onto the contractor, and stated it made sense to audit or review the RFP and presented questions relative to whether the RFP did not indicate a number for taxi rides, the 13 new vehicles that were to be provided, what the analysis will tell, performance/productivity and if realistic numbers will be looked at, and the service area, with Mr. Rudd responding.

Upon the request of Councilmember Dages, Rick Steitz, bus driver and President of the ATU, stated although he was troubled with MV originally MV turned out to be an excellent partner, and stated he hoped the study would be independent, accurate and quick. Councilmember Dages questioned if the City was abiding by their agreement with MV (with Mr. Lodde responding), and stated his mind was set to make a motion to terminate but after listening to all the testimony and talking with staff made another motion, which was seconded and later acted upon. Councilmember Boyajian commented and presented questions relative to the most important issue being the integrity of the process, if MV met contract standards, where various numbers came from, if performance times were met, if requirements/numbers were ever changed, if vehicles were supplied, when the RFP would come out, who will provide service in the interim, and the replacement buses being purchased, with Mr. Rudd and City Attorney Sanchez responding throughout.

Councilmember Dages made an addition to his motion to have staff report back in 60 days and added if that was not enough time staff could say so at that time.

President Duncan commended MV for making the effort on transition, relative to data for the RFP noted a lot of that information came from Laidlaw and stated he felt the review was needed first but he did not feel the City needed to arbitrarily decide to go look for a new vendor when there may not be a need, and questioned if there was any scenario where a new RFP would not be needed, with Mr. Rudd and Mr. Sanchez responding. President Duncan stated the fact that staff just indicated the audit could come back suggesting minor tweaks made him unwilling to commit to going out with a new RFP and strongly recommended the audit be approved to see what comes out of it before making any changes.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to (1) hire a consultant to conduct a performance audit of the City's Handy Ride system to determine reasonable expectations and benchmarks, with the findings of this audit to be used as the basis for a new RFP, and (2) report back to Council in 60 days, by the following vote:

Ayes	:	Boyajian, Dages, Perea, Sterling, Westerlund
Noes	:	Calhoun, Duncan
Absent	:	None

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#### **LUNCH RECESS - 1:14 P.M. - 2:16 P.M.**

#### **(2:00 P.M.) CONTESTED CONSENT CALENDAR:**

**(1-M) RESOLUTION NO. 2006-505 - 450<sup>TH</sup> AMENDMENT TO THE MFS 80-420 MODIFYING CAMP FRESNO FAMILY CAMPING FEES (INCREASING DAILY AND WEEKLY RATES, RESERVATION DEPOSIT, AND CREATING A DAY USE FEE)**

Assistant Parks & Recreation Director Haynes responded to questions of Councilmember Boyajian relative to the main reason for the increased/new rates, if Camp Fresno was trying to be competitive with comparable facilities, and if there was a capital improvement plan. A motion and second was made to adopt the resolution. Mr. Haynes responded briefly to questions of Councilmember Calhoun relative to why the rate increase was not done ten years ago and what Council members should tell people when they call to complain about the increased rates. President Duncan spoke briefly in support stating good improvements were being made and there was real ownership there.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2006-505 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

**(1-I) RESOLUTION NO. 2006-506 - 41<sup>ST</sup> AMENDMENT TO THE AAR RE-BUDGETING CAPITAL PROJECTS AND ADJUSTING FUEL APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION/FAX TO REFLECT FUNDING UPDATES AND FUEL COST INCREASES**

Councilmember Westerlund questioned what was at issue here adding this did not fit in with the fiscal year cycle, with ACM Rudd stating this was a grant timing issue and explained.

On motion of Councilmember Westerlund, seconded by Acting Perea, duly carried, RESOLVED, the above entitled Resolution No. 2006-506 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

**(1-J) APPROVAL OF RESOLUTIONS TO INCREASE FREQUENCIES ON THREE ADDITIONAL MAJOR BUS ROUTES**

**1. RESOLUTION NO. 2006-507 - 29<sup>TH</sup> AMENDMENT TO THE AAR APPROPRIATING \$1,259,000 FOR THE CONGESTION AND MITIGATION AIR QUALITY GRANT TO INCREASE THE FREQUENCIES**

**2. RESOLUTION NO. 2006-508 - 6<sup>TH</sup> AMENDMENT TO THE PAR ADDING TWENTY-SIX POSITIONS TO THE DEPARTMENT OF TRANSPORTATION**

AMC Rudd responded to questions of Councilmember Westerlund relative to the bus routes, percentage of increase, ridership levels, if increased ridership pays for the increased service, and **(7 - 0)** number of buses that will be required to man the 15-minute service.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-507 and 2006-508 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

**(1-K) RESOLUTION NO. 2006-509 - 33<sup>RD</sup> AMENDMENT TO THE AAR APPROPRIATING \$24,200 OF URBAN FORESTRY PROGRAM GRANT FUNDS AND REALLOCATING \$9,000 IN THE MISCELLANEOUS PAVING AND IMPROVEMENTS FUND TO PLANT STREET TREES IN VARIOUS LOCATIONS THROUGHOUT THE CITY**

Public Works Grant Writer Gonzales responded to questions and comments of Councilmember Westerlund relative to the high cost to plant trees, how many trees would actually be planted for \$24,200, hardpan resulting in increased costs due to drilling, and request for information on the number of trees that will require hardpan drilling and the number that will have normal planting.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-509 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

**(1-Q) AUTHORIZE RENEWAL OF THE FRESNO COUNTY INTERAGENCY COUNCIL FOR CHILDREN AND FAMILIES (ICCF) AGREEMENT FOR FY 2007**

Councilmember Calhoun noted this renewal keeps coming back every year with no justification information on the City's \$10,000 share and presented questions and comments relative to whether the \$10,000 actually helped children, if the other six sponsoring agencies paid the same amount, concern that the City has no oversight of the programs being funded, and if this program has been audited, with Assistant Parks & Recreation Director Haynes responding. A motion and second was made to refer the matter back to staff so staff could return with an analysis and budget for the program.

Mr. Haynes responded to questions of President Duncan relative to how long the City has been involved with this program and how the program would be impacted if this is not approved. President Duncan stated he had no problem with an audit but expressed concern with holding the program hostage after being a partner for 12 years, and suggested the organization be requested to provide information to Council on what they do. Councilmember Calhoun stated he did not see a problem with a two week delay and added he preferred to have the facts before voting.

A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to refer the matter back to staff so staff can return with an analysis and budget for the program failed, by the following vote:

Ayes	:	Boyajian, Calhoun
Noes	:	Dages, Perea, Sterling, Westerlund, Duncan
Absent	:	None

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, renewal of the Fresno County ICCF agreement hereby authorized, the City's \$10,000 share as a sponsoring member hereby approved, and the City Manager authorized to execute the renewed agreement, by the following vote:

Ayes	:	Boyajian, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	Calhoun
Absent	:	None

Councilmember Calhoun recommended staff consider this for an audit adding he felt he voted on an item without knowing all the facts, and questioned why this comes up in the middle of the year and if this was budgeted, with Mr. Haynes responding. President Duncan requested staff provide Council with information on the organization and their charge.

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#### **CLOSED SESSION:**

(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: COF V. THE UNITED STATES, U.S. ARMY CORPS OF ENGINEERS, NATIONAL GUARD BUREAU ("U.S.") AND THE BOEING COMPANY

The City Council met in closed session in Room 2125 at the hour of 2:52 p.m. to consider the above matter and reconvened in regular open session at 3:16 p.m.

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**(3:00 P.M. #3) HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S DECISION ON CUP APPLICATION NO. C-06-32 AND ENVIRONMENTAL FINDINGS, FILED BY BUN MA, PROPERTY LOCATED ON THE SOUTH SIDE OF LOS ANGELES AVENUE BETWEEN "L" AND "M" STREETS**

- 1. CONSIDER AND ADOPT E.A. NO. C-06-32, FINDING OF CATEGORICAL EXEMPTION FROM CEQA REQUIREMENTS**
- 2. RESOLUTION - APPROVING CUP APPLICATION NO. C-06-32 TO ESTABLISH AN ADULT BOOKSTORE**

President Duncan announced the time had arrived to consider the issue and opened the hearing.

City Attorney Sanchez framed the issue which included the rights of adult uses, how the Fresno Municipal Code has attempted to address secondary adverse impacts associated with these types of uses, and the residential within the buffer zone; noted as the FMC currently exists and absent an amendment to the code this CUP would have to be granted; and stated if Council wanted to look at other options staff provided background to consider a code amendment and explained. Planner Sanchez reviewed the issue and the three options available to Council, all as contained in the staff report as submitted.

Bob Logan, consultant to the applicant, noted the project was approved by the Planning Commission based on staff analysis, it complied with all regulations, and it was located in an appropriate industrial area and requested approval so Mr. Ma could continue to operate his business.

Councilmember Sterling stated she appealed this project for the following reasons: six homes and children living in the area providing for an unstable environment and health risk, the blighted area currently being in a state of redevelopment, the project being incompatible with existing uses including religious facilities in the surrounding area, current efforts to improve conditions for homeless living in the area (some with children), this type of environment helping to continue to create and/or promote poverty, gang activity, drug sales, and prostitution, the current efforts to build up the quality of life in the area, and the applicant starting the store without proper permits, and stated she was supportive of changing the policy and adopting an emergency ordinance.

Reverend Jim Franklin, speaking as a businessman and property owner investing in the area, expressed concerns stating adult bookstores result in decreased real estate values and questioned if that was wanted in the downtown area, and added sexual predators move into areas with adult bookstores making this a safety issue.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Planning & Development Director Yovino, Mr. Logan, Mr. Sanchez and City Attorney Sanchez responded to questions and/or comments of Acting President Perea and Councilmember Westerlund relative to whether the homes in the area fell into the mixed-use ordinance, this project affecting the quality of life and Council's intent to allow mixed uses in commercial and industrial areas and opposition to the project, how long the business operated without the proper permits, if the Police Department provided input, secondary affects and what other areas have experienced, and what the rationale was for excluding non-conforming residential or residential uses.

**(8-0)** Referring to the future, Councilmember Sterling questioned if mixed uses, lofts over adult bookstores, and sexual predators/parolees moving into the neighborhood made any sense, stressed this was an opportunity to do some good planning and put adult uses in a proper place such as the outer areas of the city, stated there was already a high concentration of parolees in her district, stated a businessman knows permits are needed for a business, questioned how staff will assure adoption of an urgency ordinance will become policy (with Mr. Sanchez responding), and made a motion to adopt an urgency ordinance to establish a temporary moratorium pending Council consideration of a code amendment to include legally non-conforming residential uses within the 1,000 foot buffer zone from adult uses, which motion was seconded and later acted upon. City Attorney Sanchez clarified approval of the motion would call for staff to draft and return with the urgency ordinance at the next meeting.

Councilmember Calhoun stated he would support the motion but would be looking very closely at First Amendment Rights and businesses being jeopardized when the ordinance comes back, stated mixed uses can occur anywhere in the city and added he would be concerned if the ordinance comes back so broad that it states adult bookstores are not wanted anywhere, stated close attention should be paid to the Planning Commission and the advisory committees as they reviewed this and there were reasons why they supported the project, and stated although he was supportive of Councilmember Sterling's concerns there had to be a balance for the rights of businesses. Mr. Sanchez responded to questions of Councilmember Boyajian relative to where the six homes were located, staff's discussions with the Police Department, and number of calls for service at Suzie's Adult Bookstore to date. Councilmember Boyajian stated Suzie's has been one of his district's biggest issues, and spoke to the plans for the downtown area and how this project would seem to go against those plans. President Duncan thanked Councilmember Sterling for appealing this stating not knowing about permits was a weak excuse and he was not buying it, stated although the First Amendment protected the rights of these types of businesses to exist it also recognized the City's ability to regulate them and added he felt regulations should be so hard that it will be difficult for an adult business to open up, and stated he would be supporting the ordinance wholeheartedly when it comes back.

On motion of Councilmember Sterling, seconded by President Duncan, duly carried, **RESOLVED**, staff to draft and return with an urgency ordinance for adoption to establish a temporary moratorium pending Council consideration of a code amendment to include legally non-conforming residential uses within the 1,000 foot buffer zone from adult uses, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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Councilmember Dages acknowledged and introduced Blong Xiong, newly elected Council member for District 1.

**(3:30 P.M.)** TEFRA HEARING AS REQUIRED BY THE INTERNAL REVENUE CODE OF 1986 TO CONSIDER THE PROPOSED ISSUANCE OF REVENUE BONDS BY THE HOUSING AUTHORITY OF THE CITY OF FRESNO TO FINANCE THE ACQUISITION AND CONSTRUCTION OF A 477-UNIT MULTI-FAMILY RESIDENTIAL RENTAL PROJECT, COMMONLY KNOWN AS PARC GROVE COMMONS

**1. RESOLUTION NO. 2006-510 - APPROVING THE ISSUANCE OF BONDS BY THE HOUSING AUTHORITY IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$60 MILLION**

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Assistant City Controller Bradley reviewed the issue, all as contained in the staff report as submitted, and recommended approval. Upon question of President Duncan, Ms. Bradley confirmed the bonds were not a financial obligation of the City.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, The above entitled Resolution No. 2006-510 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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Councilmember Westerlund left the meeting at 4:05 p.m.

**(3:45 P.M. #1)** CONTINUED HEARING TO CONSIDER FORMATION OF A SPECIAL TAX DISTRICT, CFD NO. 2006-1, HUNTINGTON SEWER, AND AUTHORIZE THE LEVY OF A SPECIAL TAX TO FINANCE THE INSTALLATION OF SEWER IMPROVEMENTS IN EAST HUNTINGTON AVENUE

- 1. RESOLUTION NO. 2006-511 - ESTABLISHING CFD NO. 2006-1 AND AUTHORIZING THE LEVY OF A SPECIAL TAX**
- 2. RESOLUTION NO. 2006-512 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2006-513 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-161 - ORDINANCE NO. 2006-159 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-07 AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant PUD Director Andersen advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-511, 2006-512 and 2006-513 hereby adopted, and the above entitled Bill No. B-161 adopted as Ordinance No. 2006-159, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
Noes	:	None
Absent	:	Westerlund

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**(3:45 P.M. #2)** AWARD A CONTRACT TO GEORGE DAKOVICH & SONS, INC., IN THE AMOUNT OF \$77,070 FOR THE INSTALLATION OF A 6" SANITARY SEWER IN HUNTINGTON AVENUE FROM VILLA TO LIND AVENUES

Upon question of President Duncan, Assistant PUD Director Andersen advised the staff report as submitted was complete and there was no new information to add. Councilmember Dages thanked Mr. Andersen for all his dedication and work on the issue, and made a motion to award the contract as recommended. Mr. Andersen and Councilmember Dages responded briefly to questions of Councilmember Boyajian relative to whether payments would go back to the City, if this would boost property taxes, and if there were any encumbrances.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled contract awarded as recommended, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : Westerlund

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**(4:00 P.M.) CONSIDER THE FRESNO UTILITY COMMISSION'S REPORT AND DIRECTION TO STAFF TO INITIATE THE RATE INCREASE PROCESS - PRESIDENT DUNCAN**

**1. RESOLUTION - ACCEPTING THE COMMISSION'S FINAL REPORT AND DIRECTING STAFF TO (1) INITIATE THE HEARING PROCESS FOR A PROPOSED INCREASE TO UTILITY RATES, (2) BEGIN THE PROCESS FOR FORMATION OF A SPECIAL UTILITY DISTRICT, AND (3) FORM A CITIZEN ADVISORY COMMITTEE (*Not adopted*)**

President Duncan announced the item and the process to be followed. Councilmember Westerlund returned to the meeting at 4:08 p.m. City Manager Souza advised, after discussing this matter at length with the Mayor, that there was one change to the resolution which had to do with their recommendation for the length of the Proposition 218 hearing and added it would be discussed later in more detail. President Duncan recognized and thanked Chair Hutson and the commissioners for taking on this obligation very seriously, for their extraordinary work and efforts, and for the incredible job they did in getting into all of the details.

John Hutson, Utility Commission (UC) Chair, introduced the commissioners and acknowledged those present, and along with Commissioners Ashley Swearengen and Tony Valtierra gave an in-depth PowerPoint presentation which included an introduction of the issue, the background, history of utility rates increases from 1986 through 2006, why increases were needed, guiding principles, overall policy recommendations, policy recommendations by Division, rate studies, major assumptions, alternative scenarios (**9 - 0**), rate recommendations, rate comparisons, capital projects, utility governance, Proposition 218 process, rate-setting timeline, and conclusions.

Commissioners Gary Bredefeld, Sharon Schilling, Mary Curry, Dave Pomaville and Martin McIntyre all commented on the issue and spoke to their observations, findings and recommendations. Chair Hutson read Commissioner Gunnar Jensen's comments into the record immediately following Commissioner Bredefeld's comments, and Commissioner Swearengen read Commissioner Ken Newby's comments into the record at the conclusion of commissioner comments. Commissioner Valtierra reminded Council that none of the commissioners stood to gain by the rate hikes and requested Council now do their due-diligence, and Chair Hutson stated the UC looked forward to Council's decision.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Fresno Utility Commission's report hereby accepted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

Mr. Souza noted the above entitled Resolution presented by staff reflected the position of the Mayor and as he noted earlier clarified the change would amend the two 2007 increases and would direct staff to seek out the Proposition 218 approval process for all five years of rates except that it would be conditioned on less the \$2.43 for median island/tree trimming and that the rates that go out in the years 2008, 2009 and 2010 would be those based on the Navigant study that showed the impact of the utility district.

Speaking to the issue were: Alex Correa, FCEA representative, who commended the UC, stated there was no question rate increases were necessary, and stated City employees were also important stakeholders and a seat at the table would be expected if the City moves to a special district; and Loran Harding, 3411 W. Browning, who also commended the UC, pointed out the rate increases would amount to \$48 million a year and \$966 million over the next 20 years, expressed concerns relative to the impact to those on fixed-incomes and the public relations campaign, and spoke in support of the life-line idea.

Councilmember Calhoun thanked the UC and city staff, commented and elaborated at length on various issues including the controversy associated with rate increases, a special utility district not being a new idea, not short-changing the UC by just accepting their report and just taking action on the 2007 rate recommendations, the Administration wanting to go in a different direction on Proposition 218 mailings and the UC considering and rejecting that (**10 - 0**), his long-standing support for exploring a municipal utility district, and having a five year rate plan and how rate adjustments could be made in the future if the plan becomes unnecessary due to a municipal utility district being formed, and made a motion to adopt the recommendations of the UC including the five year rate plan and request staff to return to Council with the appropriate documents to implement the recommendations and begin the Proposition process, which motion was seconded by Councilmember Dages.

Councilmember Dages thanked the UC for their work and his appointee, Sharon Schilling, for keeping him informed; stated he was disappointed Commissioner Bredefeld felt the rates should not be increased at all and explained and questioned what he knew that Council did not; stated he could not support staff's Resolution due to the Mayor wanting to eliminate the \$2.43 for tree-trimming and spoke to the importance of a clean community; stressed there was a need to establish a rate increase now; acknowledged the Fire Department was strapped financially but stated he could live with eliminating the fire hydrant fee at this time and added he did not like one department subsidizing another; stated he did expect labor to be at the table on this as employees needed to be represented; and stated this was a tough vote, he would support the UC and the motion, and added he was a little upset the Mayor came in late with his own proposal. Councilmember Westerlund thanked the UC for all their effort, work and time put in, and his appointee, Martin McIntyre, and presented questions relative to whether the numbers were the consensus of the commission and the absolute minimum, if the UC found the Department of Public Utilities, as an enterprise fund, was designed to operate as a business and cover its expenses and not co-mingle with the general fund, and how it was possible to go this long without any utility increases, with Mr. Hutson responding. Councilmember Westerlund clarified no one wants to raise fees but it was necessary and again thanked everyone involved. Councilmember Sterling thanked the UC, her appointee Marry Curry, and the Administration and staff for all their assistance, and stated she would stay consistent and represent the voice of the unemployed, the homeless, the seniors and the disabled; stated the life-line needed to be extended to those with low-income levels and those on welfare and elaborated; and stated she would sit at the table to help find solutions to make this process work should Council decide to approve the motion.

Relative to page 2/#6 of the staff report, Mr. Souza clarified staff did *not* support removal of the fire hydrant fee; stated he took offense to the term "weedian island", spoke to staff's hard work to address that issue and how improvements have been made throughout the city, and clarified the Mayor supported the UC's recommendations but disagreed with the policy that rates should be increased to fund additional median island and tree-trimming; and relative to the comment on eliminating inefficiencies stated whether rates are increased or not staff will continue to eliminate inefficiencies.

Lengthy discussion continued. Councilmember Boyajian stated as a senior member this was not a good position to be in; stated there had been tremendous leadership in the department and Council was told by past staff that a train wreck was coming; stated rates needed to be raised, all facts were known, and the UC did a tremendous job; acknowledged Commissioner Bredefeld for putting much thought and review into this issue and commended Chair Hutson for his leadership and his appointee Gunnar Jensen; stated no one wanted to raise rates but the time had arrived and added the Administration knew about this train wreck a long time ago and stated to play games at this late date was ridiculous; stated his support for the Citizen Advisory Committee and special district recommendations; upon his questions City Attorney Sanchez confirmed approval of the motion this date would simply start the process and specific rates were not being locked in; and upon his invitation Commissioner Bredefeld addressed comments made stating he took exception to the one relative to "what he knew that Council did not", clarified he did not say a small rate increase might not be warranted, and further clarified his position was he did not believe a 70% increase over the next three years was warranted and explained. Acting President Perea stated he concurred with Councilmember Sterling, stated he would be in the minority and support the Mayor's proposal as it was a more realistic approach; stated Council can not forget who they represent and spoke to the city's concentrated poverty; and stated the life-line was a great idea and he agreed it needed to be extended to poor working families but stated he did not know where the funds would come from. President Duncan presented questions relative to whether a nexus needed to be established to eliminate the fire hydrant and transverse fees and what the nexus was with median island and tree-trimming maintenance; stated there was a distinction between the UC's "special water district" and staff's "utility district", **(11 - 0)**; relative to comments that past/current Councils had not approved rate increases stated it was important to clarify that since he's been on the Council every rate increase brought forth by the Administration has been approved; emphasized rates were not being raised this date, Council would only be making a recommendation to the utility users who have the final say, and added if the utility users do not oppose an increase Council would ultimately make a decision; stated there were some things he liked and some he did not like in the report but he respected the process so much that he could accept the report and move it forward; relative to the recommended rates stated the UC brought forth the lowest increase possible and there was no middle ground; and upon his request Mr. Hutson explained how having a bad rate structure affected the city's ability to develop economically. President Duncan spoke to the median island/tree trimming and fire hydrant fee recommendations and stated if there is no clear nexus for the median island/tree-trimming maintenance that staff bring that information forth so there is no legal problem down the road.

Mr. Souza clarified fire hydrants will be maintained by someone as the Fire Department will not be in a situation where they go to put out a fire and find a fire hydrant is plugged up and added there was a cost incurred and to characterize this as a subsidy of the general fund was not the right characterization; and acknowledged Council has approve every rate brought forth by the Administration but added any Council over the years could have requested and put a rate increase on the agenda for a vote adding the Administration was not the only part of that process. Mr. Sanchez made clarifications relative to the special districts out there and which divisions they could service; and Councilmember Boyajian responded to Mr. Souza's comments on Council's ability to have scheduled and voted on increases.



On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the recommendations of the Utility Commission including the Five Year Plan hereby adopted, and staff requested to return to Council with the appropriate documents to implement the recommendations and begin the Proposition 218 process, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Westerlund, Duncan  
Noes : Perea, Sterling  
Absent : None

Councilmember Sterling briefly left the meeting at 6:19 p.m.

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**(4:45 P.M.)** HEARING ON REZONE APPLICATION NO. R-06-13 AND ENVIRONMENTAL FINDINGS, FILED BY HARBOUR AND ASSOCIATES ON BEHALF OF MICHAEL KLUDJIAN, WEST SIDE OF S. WILLOW BETWEEN E. TULARE AND E. KINGS CANYON ROAD *(Continued from 4:10 p.m.)*

1. CONSIDER AND ADOPT E.A. NO. R-06-31/T-5569/C-06-51, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A TO R-1

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Bernal advised the staff report as submitted was complete and there was no new information to add.

Councilmember Dages stated he had not talked with the developer and had no information on the project and requested the hearing be continued so he could meet with the developer.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Hearing on Rezone Application No. R-06-13 continued to November 28, 2006, at 3:45 p.m., by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Westerlund, Duncan  
Noes : None  
Absent : Sterling

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Councilmember Sterling returned to the meeting at 6:21 p.m.

**(5:00 P.M.)** HEARING TO CONSIDER AN APPEAL OF THE PLANNING AND DEVELOPMENT DIRECTOR'S APPROVAL OF CUP APPLICATION NO. C-06-44 AND ENVIRONMENTAL FINDINGS, FILED BY OMNIPOINT COMMUNICATION ON BEHALF OF T-MOBILE COMMUNICATION, NORTHWEST CORNER OF W. BULLARD AND N. TAMERA AVENUES *(Continued from 4:15 p.m.)*

1. CONSIDER AND ADOPT E.A. NO. C-06-44, FINDING OF CATEGORICAL EXEMPTION FROM CEQA REQUIREMENTS
2. **RESOLUTION NO. 2006-514** - APPROVING CUP APPLICATION NO. C-06-44 TO CONSTRUCT AN UNMANNED WIRELESS TELECOMMUNICATIONS FACILITY INCLUDING A 70-FOOT HIGH SLIMLINE MONOPOLE WITH THREE PANEL ANTENNAS CONCEALED INSIDE A RADOME AND RELATED GROUND EQUIPMENT

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Planner Fabino gave an in-depth PowerPoint presentation on the issue, all as contained in the staff report as submitted, and recommended the appeal be denied and the CUP approved.

Speaking in opposition to the project citing visual, zoning history, covenant, non-conforming structure, health affects, and decreased property value concerns were: Andrea Crisp, 6057 N. Malsbury; Kathy Kuester; Paul Willingham; Emma Jean Schrader, 6060 N. Malsbury; Deana Oliver, licensed real estate broker; and Mike Solis, 3389 W. Bullard.

Steve Royster, Executive Director of the Boys Scouts, spoke in support; Armen Annmajerian, 4214 W. Sierra, suggested the tower be constructed to look like a tree; and Nate Holderbein, Site Development Representative for T-Mobile, spoke in support and to the need for the tower for consistent coverage for users **(12 - 0)**.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Upon the request of Councilmember Calhoun, Planning & Development Director Yovino and City Attorney Sanchez addressed comments/allegations made by the speakers and/or clarified issues relative to the process followed, something done illegally, the covenant being brushed aside, the process being flawed, the neighborhood not being adequately noticed, and the new guidelines unanimously approved for cell towers. Councilmember Calhoun stated he watched and followed this project closely as it moved forward, stated the Bullard Implementation Committee takes it job seriously and had no objections, clarified the tower site was near a residential area but in a commercial area with trees in between, stated cell towers are now a part of a wireless world and he felt this project would be a good fit for the area, stated he talked with one of the appellants and he thought there was satisfaction, and stated the CUP was properly vetted, everyone had opportunity to provide input, the Boy Scouts reached over backwards to be good neighbors, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Mr. Sanchez, Ms. Kuester, Mr. Fabino and Mr. Holderbein responded to questions of Councilmembers Boyajian and Dages relative to the findings and what could be found in terms of health, the covenant and requirements, if the covenant ran with the land, conformity/if the covenant was irrelevant, if neighborhood concerns were relayed to staff, and if the tower could be made to look like a tree. Councilmember Dages stated he agreed property values would decrease and stated he could not support this as he was opposed to a tower going up for the benefit of a business that will affect 250 neighbors. Mr. Yovino responded briefly to questions of Acting President Perea relative to staff's position on the tree-look alternative. Councilmember Westerlund stated he appreciated everyone's input and noted these type of projects have come forth before with the same concerns are expressed, and relative to the covenant stated it does not talk about equipment and this was equipment and he would support the motion. President Duncan stated there are numerous towers in northeast Fresno and he did not feel they had much impact on property values.

On motion of Councilmember Calhoun, seconded by President Duncan, duly carried, RESOLVED, the above entitled E.A. No. C-06-44 and finding hereby adopted, the appeal denied, and the above entitled Resolution No. 2006-514 hereby adopted, subject to the two development conditions outlined in the staff report, by the following vote:

Ayes	:	Calhoun, Sterling, Westerlund, Duncan
Noes	:	Boyajian, Dages, Perea
Absent	:	None

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## ADJOURNMENT

There being no further business to bring before the City Council, the hour of 7:25 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

*Approved* on the \_\_\_\_28th\_\_\_\_ day of \_\_\_\_November\_\_\_\_, 2006.

\_\_\_\_\_/s/\_\_\_\_\_  
Jerry Duncan, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

